

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 6/18/2022
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SAMANTHA SIVA KUMARAN, et al.,	:	
	:	
Plaintiffs,	:	1:20-cv-3668-GHW
	:	
-against-	:	<u>ORDER</u>
	:	
NATIONAL FUTURES ASSOCIATION, LLC, et	:	
al.,	:	
	:	
Defendants.	:	
	:	
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GREGORY H. WOODS, District Judge:

For the reasons stated on the record at the conference held on June 17, 2022, attorney David Kostus’s motion to withdraw as counsel for Nefertiti Risk Capital Management, LLC (“NRCM”), Dkt. No. 202, is GRANTED.

As the Court explained during the conference, corporate entities—such as NRCM—must appear before the Court through counsel. *See Rowland v. California Men’s Colony*, 506 U.S. 194, 201–02 (1993). In other words, NRCM must retain an attorney should it wish to prosecute this case. Replacement counsel for NRCM must enter a notice of appearance in this case no later than July 18, 2012. If no attorney enters an appearance on behalf of NRCM by that date, the Court may dismiss its claims for failure to prosecute. *See Glob Auto, Inc. v. Hitrinov*, No. 13-cv-2479, 2015 WL 5793383, at *5 (E.D.N.Y. Sept. 30, 2015) (explaining that “[d]istrict courts in this Circuit have exercised their discretion to dismiss an action for failure to prosecute where a corporate plaintiff fails to obtain counsel after being directed to do so and being warned of the consequences of inaction”); *see also United States ex rel. Reliable Constr. PM, Inc. v. Land Frog, Inc.*, No. 13-CV-7351, 2015 WL 740034 (E.D.N.Y. Feb. 20, 2015); *Negrin v. Kalina*, No. 09 Civ. 6234, 2013 WL 5925916 (S.D.N.Y. Nov. 5, 2013).


The case is STAYED through July 18, 2022 to allow the Corporate Plaintiffs to retain replacement counsel. New counsel must file a notice of appearance no later than July 18, 2022. In the event that the Corporate Plaintiffs retain new counsel prior to July 18, 2022, the stay will be lifted upon the filing of a notice of appearance by that counsel. The Court observes that prior counsel in this case filed submissions to the Court on behalf of the Corporate Plaintiffs that were wholly drafted by Ms. Kumaran rather than by counsel. The Court expects that this issue will not recur with new counsel.

Given that the Court is granting Mr. Kostus's motion to withdraw and because this case is stayed until July 18, 2022, Ms. Kumaran's motion for an emergency stay to resolve concerns regarding Mr. Kostus's representation, Dkt. No. 194, is denied as moot.

The Clerk of Court is directed to terminate the motions pending at Dkt. Nos. 194 and 202, to remove David Kostus from the list of counsel on the docket, and to indicate on the docket that this case is stayed.

SO ORDERED.

Dated: June 18, 2022
New York, New York



GREGORY H. WOODS
United States District Judge